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Oct. 27

CONCORD, N.H.

Dr. Ernest Shephard, Director
Division on Alcoholism
66 South Street
Concord, New Hampshire

Dear Dr. Shephard:

You have inquired as to whether or not the general authorization for the disclosure of information made by an applicant for welfare assistance would be sufficient to cover the confidential nature of records of patients' treatment in your Division.

Briefly, it is my understanding that the Welfare Department has requested information from you pertaining to a person who has at some time been under treatment by the Division on Alcoholism. The general authorization contained on the application blank for welfare assistance is as follows:

"I hereby authorize and request any relative, physician, hospital, clinic, lawyer, banker, postal savings, bank official, insurance company, fraternal order, and any other person or organization having information concerning my financial circumstances or physical condition to furnish such information to the Department of Public Welfare or to its accredited representative."

Revised Laws, chapter 254, section 12 as amended by Laws 1950, chapter 5, Part 12, section 9 states in part that: "No voluntary patient shall by asking the help or care of the Executive Director abridge any of his civil rights nor shall evidence of his voluntary submission to the Executive Director's care and control be admissible against him in any court. All records pertaining to voluntary patients shall be kept confidential and not divulged."

It is my opinion that the information requested by the Department of Public Welfare may not be disclosed by you without specific authorization from the patient. I feel that the authorization contained on the Department of Public Welfare's application form is too general to cover

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ATTORNEY-GENERAL

Dr. Ernest Shepard

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a specific statutory cloak thrown around the records of your Division. In previous discussions regarding the statutory privilege we have decided that the confidentiality of the records regarding voluntary patient is so strict as to preclude you from disclosing whether or not a named person has at any time been a patient. The nature of the relationship between your Division and persons seeking your assistance is such that strict confidentiality is required if the program is to meet with success.

Revised Laws, chapter 254, section 12, cited above, creates a statutory privilege in favor of the patients being treated by your Division. This privilege may be waived by the patient, but such waiver must be given knowingly. I do not think that a person signing the form provided by the Welfare Department could be said to have knowingly waived this statutory privilege.

I feel that regardless of the difficulty that the Department of Public Welfare may have in obtaining the necessary authorization from the patient that such specific authorization is required and the general waiver contained on the application signed by the individual would not be sufficient to permit you to disclose information in your hands.

Very truly yours,

Henry Dowst, Jr.,
Assistant Attorney General

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